

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) METRO ORDINANCE NO. 00-876A
METRO CODE CHAPTER 5.02 TO)
CREATE A DISPOSAL CHARGE FOR)
COMPOSTABLE ORGANIC WASTE)
AT METRO TRANSFER STATIONS)
AND MAKING RELATED CHANGES) Introduced by:
TO THE METRO EXCISE TAX AND) Executive Officer Mike Burton
METRO CODE CHAPTER 7.01)

WHEREAS, The Regional Solid Waste Management Plan identifies the recovery of organic materials as a primary area for focused and intensive waste reduction and recovery program initiatives; and

WHEREAS, The Metro Council approved an Organic Waste Management Work Plan in Resolution No. 99-2856; and

WHEREAS, Key elements of the Organic Waste Management Work Plan would be realized if compostable organic wastes could be accepted at Metro Central Transfer Station, separated from other municipal solid waste; and

WHEREAS, The delivery of compostable organic materials could be encouraged by a user charge for compostable organic materials that is separate and distinct from the charge for mixed solid waste; and

WHEREAS, Compostable organic materials could be kept separated from other municipal solid waste if delivered to Metro Central Transfer Station in a form suitable for recovery; and,

WHEREAS, The proposed changes presented in this Ordinance were brought before, and unanimously approved by the Rate Review Committee on July 12, 2000; and

WHEREAS, This ordinance was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 5.02.015 is amended as follows.

5.02.015 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

(a) "Acceptable special wastes" means those special wastes that are approved for disposal at Metro South Station or Metro Central Station by the Metro Regional Environmental Management Department in the form of a special waste permit. Unacceptable waste, as defined in this section, is expressly excluded.

(b) "Cash account customer" means a person who pays cash for disposal of solid waste at Metro South Station or Metro Central Station.

(c) "Commercial customer" means a person primarily engaged in the business of collection or transportation of solid waste who is authorized by any federal, state or local government to perform such collection or transportation.

(d) "Compost" shall have the meaning set forth in Section 5.01.010 of this Chapter.

(e) "Compostable Organic Waste" means organic wastes delivered in a single transaction at Metro Central Station or at Metro South Station in a form suitable for making Compost, notwithstanding the presence of incidental amounts or types of non-compostable materials.

(f) "Conditionally exempt generator (CEG)" means a Conditionally Exempt Small Quantity Generator as defined in 40 CFR 261.4 (b) (1).

(g) "Credit account customer" means a person who pays for disposal of solid waste through a charge account at Metro South Station or Metro Central Station.

(h) "Direct-haul disposal charge" means that fee which pays for the direct unit costs of disposal of solid waste under the disposal contract between Metro and Oregon Waste Systems, Inc. The Direct-haul Disposal Charge is levied on solid waste that is generated or originates within the Metro boundary and is delivered directly to Columbia Ridge Landfill under Metro's disposal contract with Oregon Waste Systems, Inc. by persons other than Metro. The Direct-haul Disposal Charge is equal to the disposal component of the Disposal Fee.

(i) "Disposal fee" means those fees which pay the direct unit costs of transportation and disposal of general purpose solid waste. Major cost components are the long haul transport contract and the Oregon Waste Systems, Inc., disposal contract.

(j) "Enhancement fees" means those fees collected in addition to general disposal rates that are used to pay for rehabilitation and enhancement projects in the areas immediately surrounding landfills and other solid waste facilities.

(k) "Facility Retrieval Rate" means the percentage expressed by dividing the sum of all tonnage recovered at a solid waste facility, including all Source-Separated Recyclable Materials, by the sum of the tonnage recovered at such facility, including all Source-Separated Recyclable Materials, and the total solid waste destined for disposal from the facility.

(l) "Household hazardous waste" means any discarded, useless or unwanted chemical, material substance or product that is or may be hazardous or toxic to the public or the environment and is generated by households which may include, but is not limited to, some cleaners, solvents, pesticides, and automotive and paint products.

(m) "Limited purpose solid waste" means construction, demolition, process residue, land clearing waste and non-hazardous industrial dust.

(n) "Metro Central Station" is the Metro solid waste transfer and recycling station located at 6161 NW 61st Avenue, Portland, Oregon 97210.

(o) "Metro disposal system" means Metro South Station, Metro Central Station, Columbia Ridge Landfill and such other facilities, or contracts for service with Metro which transfer or cause solid waste to be disposed at the Columbia Ridge Landfill or other disposal facility.

(p) "Metro Facility Fee" means those fees which pay for direct management costs of the Metro disposal system and for capital items directly related to such facilities. This fee is imposed upon all solid waste delivered to Metro Central Station or the Metro South Station.

(q) "Metro South Station" is the solid waste transfer station owned and operated by Metro and located at 2001 Washington, Oregon City, Oregon 97045.

(r) "Metro waste management system" means all associated Metro solid waste services related to management of the whole recycling, processing and disposal system

(s) "Non-commercial Customer" means a person who is not primarily engaged in the business of collection or transportation of solid waste and who is not authorized by any federal, state or local government to perform such collection or transportation.

(t) "Person" means any individual, partnership, association, corporation, trust, firm, estate, joint venture or any other private entity or any public agency.

(u) "Processing Residual" means the non-putrescible solid waste destined for disposal which remains after recyclable materials have been removed from such non-putrescible solid waste.

(v) "Recoverable Solid Waste" means wood waste, yard debris, or tires, whether Source-Separated or commingled, and delivered in a single transaction at Metro Central Station or at Metro South Station in a form suitable for mechanical extraction of useful materials, notwithstanding the presence of incidental amounts or types of other contaminants.

(w) "Recovery Rate" means the percentage expressed by dividing the sum of tonnage recovered at a solid waste facility, excluding Source-Separate Recyclable Materials, by the sum of the tonnage recovered at such facility, excluding Source-Separate Recyclable Materials, plus the Processing Residual at such facility.

(x) "Recyclable Material" has the meaning specified in ORS 459.005(19).

(y) "Regional System Fee" means those fees which pay the cost of the Metro Waste Management System.

(z) "Regional transfer charge" means those fees which pay the direct unit operating costs of the Metro transfer stations. This fee is imposed upon all solid waste delivered to Metro disposal system facilities.

(aa) "Regional transfer station" is a transfer facility that accepts putrescible and non-putrescible wastes from a wide variety of commercial and public users; and includes as ancillary activities: collection of household and conditionally exempt generator hazardous waste, recycling drop center, and resource recovery.

(bb) "Solid waste" means all putrescible and nonputrescible wastes, including garbage, rubbish, refuse, paper and cardboard, commercial, industrial, demolition and construction waste, home and industrial appliances.

(cc) "Solid Waste Disposal Transaction" means the usage of Metro transfer station disposal facilities by a customer for the purpose of delivering for disposal a single load of solid waste during a single visit from a single vehicle (whether or not accompanied by, or transporting, one or more trailers), and shall be determined to occur upon a customer's entrance to Metro transfer station facilities.

(dd) "Source-Separate" has the meaning specified in ORS 459.005(26).

(ee) "Special loads" means all loads of household hazardous waste that are 35 gallons or more in the aggregate or loads that contain any acutely hazardous waste.

(ff) "Special waste" means any waste (even though it may be part of a delivered load of waste) which one or more of the following categories describes:

- (1) Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in 3 through 9 and 11 of this definition below.
- (2) Waste transported in a bulk tanker.
- (3) Liquid waste including outdated, off spec liquid food waste or liquids of any type when the quantity and the load would fail the paint filter liquid (Method 9095, SW-846) test or includes 25 or more gallons of free liquid per load, whichever is more restrictive.
- (4) Containers (or drums) which once held commercial products or chemicals, unless the containers (or drums) are empty. A container is empty when:
 - (A) All wastes have been removed that can be removed using the practices commonly employed to remove materials from the type of container, e.g., pouring, pumping, crushing, or aspirating.
 - (B) One end has been removed (for containers in excess of 25 gallons); and
 - (i) No more than one inch thick (2.54 centimeters) of residue remains on the bottom of the container or inner liner; or
 - (ii) No more than 1 percent by weight of the total capacity of the container remains in the container (for containers up to 110 gallons); or

(iii) No more than 0.3 percent by weight of the total capacity of the container remains in the container for containers larger than 110 gallons.

- (C) Containers that once held acutely hazardous wastes must be triple-rinsed with an appropriate solvent or cleaned by an equivalent alternative method. Containers that once held substances regulated under the Federal Insecticide, Fungicide, and Rodenticide Act must be empty according to label instructions or triple-rinsed with an appropriate solvent or cleaned by an equivalent method. Plastic containers larger than five gallons that hold any regulated waste must be cut in half or punctured, and be dry and free of contamination to be accepted as refuse.
- (5) Sludge waste from septic tanks, food service, grease traps, or wastewater from commercial laundries, Laundromats or car washes.
 - (6) Waste from an industrial process.
 - (7) Waste from a pollution control process.
 - (8) Residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 1 through 7 or 9 of this definition.
 - (9) Soil, water, residue, debris, or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 1 through 8 of this definition.
 - (10) Chemical-containing equipment removed from service (for example: filters, oil filters, cathode ray tubes, lab equipment, acetylene tanks, CFC tanks, refrigeration units, or any other chemical containing equipment).
 - (11) Waste in waste containers that are marked with a National Fire Protection Association identification label that has a hazard rating of 2, 3, or 4, but not empty containers so marked.
 - (12) Any waste that requires extraordinary management or special handling.

Examples of special wastes are: chemicals, liquids, sludge and dust from commercial and industrial operations; municipal waste

water treatment plant grits, screenings and sludge; contaminated soils; tannery wastes, empty pesticide containers, and dead animals or by-products.

- (13) All loads of household hazardous waste that are 35 gallons or more in the aggregate.
- (14) Radioactive waste.
- (15) Medical waste.

(gg) "Transaction Charge" means that fee which, for each transaction, serves to pay for related scalehouse costs at the Metro transfer stations.

(hh) "Transfer Facility" means a solid waste disposal facility that receives solid waste primarily for reloading into different vehicles for transport to Metro South Transfer Station, Metro Central Transfer Station, a Metro licensed or franchised facility, or a Metro Designated Facility.

(ii) "Unacceptable waste" means waste that is either:

- (1) Prohibited from disposal at a sanitary landfill by state or federal law, regulation, rule, code, permit or permit condition;
- (2) Special waste without an approved special waste permit. The executive officer may deny a special waste application if the special waste poses an unacceptable health and safety risk, or is likely to damage transfer station equipment.

(jj) "Waste" shall have the meaning set forth in Section 5.01.010 of this Chapter.

Section 2. Section 3 is added to and made a part of Chapter 5.02.

Section 3. Disposal Charge for Compostable Organic Waste

(a) There is hereby established a Compostable Organic Waste Disposal Charge for Compostable Organic Waste that shall be collected on all Compostable Organic Waste accepted at the Metro South Station or Metro Central Station.

(b) The Compostable Organic Waste Disposal Charge shall be Metro's actual costs for managing Compostable Organic Waste, based on the contractual price expressed on a per-ton basis paid by Metro to any contract operator of Metro South Station and Metro Central Station for recovering and processing Compostable Organic Waste.

(c) In the event that no agreement is reached between Metro and its contract operator for recovering and processing Compostable Organic Waste, the Compostable Organic Waste Disposal Charge shall be the sum of the following costs:

- (1) The sum of the amount of the Regional Transfer Fee as defined in Section 5.02.025 (b) (2) of this chapter, plus \$0.75 per ton; and
- (2) The transport and processing charges for Compostable Organic Waste paid by Metro or its contract operator, expressed on a per-ton basis; and
- (3) The cost of materials utilized at Metro Central Station and Metro South Station for managing the Compostable Organic Waste, expressed on a per-ton basis.

(d) Notwithstanding the Compostable Organic Waste Disposal Charge as calculated in subsection (c) of this section, there may be established a reduced disposal charge for Compostable Organic Waste. This reduced disposal charge shall be based on an estimate of what the sum of the costs set forth in subsection (c) would be on July 1, 2003. Prior to implementing any reduced Compostable Organic Waste Disposal Charge, the Director of the Regional Environmental Management Department shall prepare a report for Metro Council stating the costs that are expected to prevail on July 1, 2003 for managing Compostable Organic Waste. The provisions of this subsection are repealed June 30, 2003.

(e) The Compostable Organic Waste Disposal Charge shall be in lieu of all other base disposal charges, transaction fees, user fees, regional transfer charges, rehabilitation and enhancement fees, and certification non-compliance fees that may be required by this chapter.

(f) Before the initial collection of the Compostable Organic Waste Disposal Charge, the amount of such charge shall be subject to review under Metro Code Chapter 5.08 and also shall be approved by the Metro Council. Thereafter, any proposed increase of the Compostable Organic Waste Disposal Charge that would result in a charge that exceeds the amount which the Council approved by more than 10 percent shall be subject to review under Metro Code Chapter 5.08 and shall require the approval of the Metro Council.

(g) Notwithstanding subsections (b) and (c) of this section, the Director of the Regional Environmental Management Department may establish a minimum charge for loads of Compostable Organic Waste.

Section 4. Metro Code Section 7.01.020 as amended by Metro Ordinance No. 00-857B is amended as follows.

7.01.010 Tax Imposed

(a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by the district, each user except users of solid waste system facilities shall pay a tax of 7.5 percent of the payment charged by the operator or the district for such use unless a lower rate has been established as provided in subsection 7.01.020(b). The tax constitutes a debt owed by the user to the district which is extinguished only by payment of the tax directly to the district or by the operator to the district. The user shall pay the tax to the district or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) or in subsections 7.01.020(c)-(e) by so providing in an ordinance adopted by the district. If the council so establishes a lower rate of tax, the executive officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the council as provided for herein.

(c) For the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements, owned, operated, certified, licensed, franchised, or provided by the district, each user of solid waste system facilities and each solid waste facility licensed or franchised under chapter 5.01 of this Code to deliver putrescible waste directly to the district's contractor for disposal of putrescible waste shall pay a tax in the amount calculated under subsection (e)(1) for each ton of solid waste exclusive of compostable organic waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. The tax constitutes a debt owed by the user to the district which is extinguished only by payment of the tax directly to the district or by the operator to the district. The user shall pay the tax to the district or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(d) For the Metro fiscal year beginning July 1, 2000, and for each fiscal year thereafter subject to Section 4 of this ordinance, the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue of \$5,700,000 after allowing for any tax credit or tax rebate for which provision is made in this chapter.

- (e) (1) The excise tax rate for each ton of solid waste, exclusive of (i) source separate recyclable materials accepted at the solid waste system facilities, (ii) inert materials, (iii) Cleanup Materials Contaminated by Hazardous Substances, and (iv) compostable organic waste delivered to Metro Central or Metro South stations, shall be the amount that results from dividing the net excise tax revenue amount set forth in sub-section (d) by the amount of solid waste tonnage which the Executive Officer reports to the Council under sub-section (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be the district's excise tax rate on solid waste during the subsequent Metro fiscal year.
- (e) (2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be \$1.00.

(f) By December 1, 2000 and by March 1st of each year thereafter, the Executive Officer shall provide a written report to the Metro Council stating the following:

- (1) For the twelve-month period ending the previous December 31; the amount of solid wastes, exclusive of inert materials, delivered for disposal to any Solid Waste System Facility that is not exempt pursuant to section 7.01.050(a) of this chapter, and
- (2) The amount of such solid wastes that would have been delivered for disposal to any such non-exempt Solid Waste System Facility if the Regional Recovery Rates corresponding to each calendar year set forth on the following schedule had been achieved:

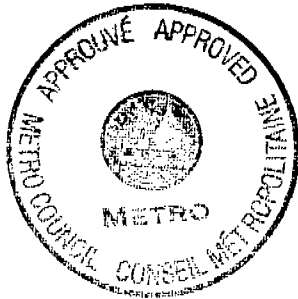
Year	Regional Recovery Rate
1999	43%
2000	46%
2001	48%
2002	50%
2003	52%
2004	54%
2005	56%

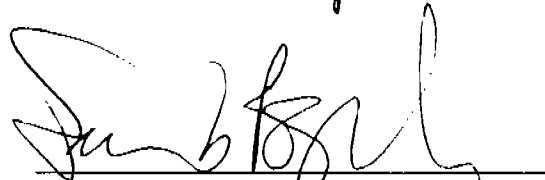
The result of such calculation by the Executive Officer shall be used to determine the excise tax rate under sub-section (e)(1).

(g) A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(e)(1) for disposal of Processing Residuals from such facility. The Facility Recovery Rate shall be calculated for each six-month period before the month in which the credit is claimed. Such credit shall be dependent upon the Facility Recovery Rate achieved by such facility and shall be equal to the amount resulting from reducing the Excise Tax due by the percentage reduction corresponding with the Facility Recovery Rates provided on the following table:


Excise Tax Credit Schedule		
Facility Recovery Rate		Excise Tax Credit
From Above	Up To & Including	
0%	25%	0%
25%	30%	4%
30%	35%	10%
35%	40%	20%
40%	45%	33%
45%	100%	45%

ADOPTED by the Metro Council this 25th day of January, 2001.

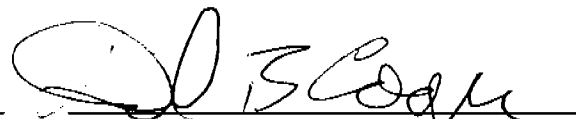



David Bragdon, Presiding Officer

ATTEST:


Recording Secretary

Approved as to Form:


Daniel B. Cooper, General Counsel

EXECUTIVE SUMMARY

Ordinance No. 00-876A

PROPOSED ACTION

- Recommend that Metro Council pass Ordinance No. 00-876A, which amends Metro Code Chapter 5.02 to establish a tip fee for “compostable organic waste” delivered to Metro Central or Metro South transfer stations.

WHY NECESSARY/DESCRIPTION

- Allows for a rate to be posted at the transfer station for such materials and allows them to be accepted and managed separately from other solid wastes.
- Helps to implement the Organic Waste Management Work Plan adopted by Metro Council as Resolution No. 99-2856, by increasing the region’s ability to accept, stage and recover such materials.

ISSUES

- In order for the transfer stations to fill a critical role in organic waste recovery, they must be able to accept source-separated organic waste from third party haulers.
- The Metro Code currently has provisions for special user charges for other Recoverable Solid Waste. Organic materials already covered by these provisions include yard debris and wood waste.
- An established tip fee for compostable organic materials is an important price signal for developers of organics collection and recovery infrastructure.
- The proposed changes to Metro Code simply allow REM to charge a different rate for compostable organic wastes, but do not change their status as “solid waste” for regulatory and legal purposes. For example, the Code changes do not establish a new class of “source-separated organics.”
- This Ordinance will allow REM to charge a reduced rate for “compostable organic waste” up to 3 years. The Budget Advisory Committee recommended that: (1) REM set a reduced rate up to 3 years, in order to allow the industry time to develop (or to signal that it won’t develop); (2) the reduced rate be based on costs that are expected to prevail after the industry becomes established. In this way, long-run price signals are not distorted, and the transition from a subsidized rate to an unsubsidized rate should be relatively smooth.

BUDGET/FINANCIAL IMPACTS

- None. The rate for Recoverable Solid Waste covers all Metro costs of managing such waste at the transfer stations. Any additional management, such as for processing, testing and marketing, are encompassed by the Organic Waste Management Work Plan. Both the Organics Plan and its budget have already been approved by Metro Council, so there is no additional fiscal impact.

STAFF REPORT

Ordinance No. 00-876A, For the purpose of amending Metro Code Chapter 5.02 to create a disposal charge for compostable organic waste at Metro transfer stations and making related changes to the Metro excise tax and Metro Code Chapter 7.01.

January 2001

Presenter: Terry Petersen

BRIEF DESCRIPTION OF ORDINANCE

This Ordinance amends Metro Code Chapter 5.02 to establish a rate for organic wastes that are delivered in a form suitable for making compost. This allows a rate to be posted at the transfer station for such materials, and allows them to be accepted and managed separately from other solid wastes. This fact increases the region's capacity to accept, stage and recover such materials; an important goal of the Organic Waste Management Work Plan, adopted by Metro Council as Resolution No. 99-2856.

EXISTING LAW

Establishment of a rate for compostable organic waste requires an amendment of Metro Code Chapter 5.02. Any amendment of Metro Code requires an ordinance approved by Metro Council, pursuant to Metro Charter section 39(1).

BACKGROUND

In December 1999, a three-year Organic Waste Management Work Plan developed by an intergovernmental team was adopted by the Metro Council (Resolution No. 99-2856). This plan provides for a three-track approach to the recovery and diversion of the region's organic wastes. The plan emphasizes waste prevention, recovery of food for human use, diversion of food for animal feed and the development of processing infrastructure for organic materials not suitable for other uses.

Pilot projects for the collection and processing of organics and the development of infrastructure to handle such materials are key elements of the Organics Plan. The Metro transfer stations will play a critical role in the development of the region's ability to recover and manage organic wastes. In addition, Metro is developing a Request for Proposals (RFP) for disposal of 10% of the region's waste. The RFP includes provisions for commercial organics processing. The RFP incorporates the use of Metro transfer stations for staging, reloading and possibly on-site processing. A rate for organic material will be necessary to accommodate these activities.

In implementing the new Organics Plan, it becomes necessary to accept organic material from "third-party" haulers. This requires that Metro post a fee and manage organics separately from mixed solid waste at the transfer stations. The Metro Code currently has provisions for special user charges for Recoverable Solid Waste. Some organic wastes are already covered by these provisions; specifically, yard debris and wood waste. By including a definition and rate for "compostable organic waste," REM can establish fair and equitable rates for delivery to and

management of organic waste at Metro's transfer stations. The amendments in this ordinance were unanimously recommended for Council approval by the Rate Review Committee on July 12, 2000.

A cost-driven rate formula for compostable organic waste is proposed. This rate structure is patterned after the "recoverable solid waste" rate formula presently in Metro Code. The specifics of the ordinance incorporate recommendations from the Budget Advisory Committee. Among these recommendations are: (1) foregoing the Regional System Fee and Metro excise tax on "compostable organic waste" consistent with Metro's fee policies toward recoverable materials, and (2) provision for a temporarily-reduced organics rate to help get the collection and recovery infrastructure up and running.

This Ordinance will allow REM to charge a reduced rate for "compostable organic waste" up to 3 years in the event that a temporarily reduced rate is required to help develop an organics infrastructure. This recommendation emerged from the Budget Advisory Committee (BAC) in recognition of the fact that any cost-driven rate is likely to be higher than the MSW rate while the industry is still in its infancy. The BAC recommended against an artificially low subsidized rate, because this could distort the market, and would cause significant disruptions if the subsidy is ever eliminated. The BAC also recommended against a permanently subsidized rate, because this too distorts the market. The BAC recommendation that is implemented in the proposed Code revisions are: (1) REM may set a reduced rate up to 3 years, in order to allow the industry time to develop (or to signal that it won't develop); (2) the reduced rate is based on costs that are expected to prevail after the industry becomes established. In this way, long-run price signals are not distorted, and the transition from a subsidized rate to an unsubsidized rate should be relatively smooth.

BUDGET IMPACT

Budget Impact, FY 2000-01

Solid Waste Revenue Fund. No further budget impact. The Compostable Organic Waste Disposal Charge covers all Metro costs of managing such waste at the transfer stations. Any additional management, such as for processing, testing and marketing, are encompassed by the Organic Waste Management Work Plan. The dollar amount needed to subsidize a reduced Compostable Organic Waste Disposal Charge (pursuant to Section 2[d] of the ordinance), if any, is also covered by the budget for the organics work plan. Metro Council has already approved both the Organics Plan and its budget, so there is no additional fiscal impact.

General Fund. During FY 2000-01, REM expects most organic wastes to be delivered under a pilot project within the Organic Waste Management Work Plan. For these cases, there is no budget impact on the General Fund. If, however, any organic wastes are diverted from the non-exempt waste stream to compostable organic waste and delivered outside the pilot, then the excise tax revenue on the diverted tonnage would be foregone. However, REM believes that the probability of organic wastes delivered outside the pilot during FY 2000-01 is very remote; and even if such organic wastes are delivered, the amount would be small in any case.

Budget Impact after FY 2000—01

None. Metro does not lose revenues when anticipated amounts of recyclable, recoverable or compostable materials are exempted from the regional system fee or Metro excise tax. Rather, the fee and tax rates are raised, and revenue formerly derived from exempted materials is obtained from solid waste that continues to be disposed.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 00-876A.

DA:JE:mca
Share/Dept/Legislation/organicsstfprt876A

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(ig) "Disposal fee" means those fees which pay the direct unit costs of transportation and disposal of general purpose solid waste. Major cost components are the long haul transport contract and the Oregon Waste Systems, Inc., disposal contract.

(jh) "Enhancement fees" means those fees collected in addition to general disposal rates that are used to pay for rehabilitation and enhancement projects in the areas immediately surrounding landfills and other solid waste facilities.

(ki) "Facility Retrieval Rate" means the percentage expressed by dividing the sum of all tonnage recovered at a solid waste facility, including all Source-Separated Recyclable Materials, by the sum of the tonnage recovered at such facility, including all Source-Separated Recyclable Materials, and the total solid waste destined for disposal from the facility.

(lj) "Household hazardous waste" means any discarded, useless or unwanted chemical, material substance or product that is or may be hazardous or toxic to the public or the environment and is generated by households which may include, but is not limited to, some cleaners, solvents, pesticides, and automotive and paint products.

(mk) "Limited purpose solid waste" means construction, demolition, process residue, land clearing waste and non-hazardous industrial dust.

(nl) "Metro Central Station" is the Metro solid waste transfer and recycling station located at 6161 NW 61st Avenue, Portland, Oregon 97210.

(om) "Metro disposal system" means Metro South Station, Metro Central Station, Columbia Ridge Landfill and such other facilities, or contracts for service with Metro which transfer or cause solid waste to be disposed at the Columbia Ridge Landfill or other disposal facility.

(pn) "Metro Facility Fee" means those fees which pay for direct management costs of the Metro disposal system and for capital items directly related to such facilities. This fee is imposed upon all solid waste delivered to Metro Central Station or the Metro South Station.

(qe) "Metro South Station" is the solid waste transfer station owned and operated by Metro and located at 2001 Washington, Oregon City, Oregon 97045.

(~~rp~~) "Metro waste management system" means all associated Metro solid waste services related to management of the whole recycling, processing and disposal system

(~~sq~~) "Non-commercial Customer" means a person who is not primarily engaged in the business of collection or transportation of solid waste and who is not authorized by any federal, state or local government to perform such collection or transportation.

(~~tr~~) "Person" means any individual, partnership, association, corporation, trust, firm, estate, joint venture or any other private entity or any public agency.

(~~us~~) "Processing Residual" means the non-putrescible solid waste destined for disposal which remains after recyclable materials have been removed from such non-putrescible solid waste.

(~~vf~~) "Recoverable Solid Waste" means wood waste, yard debris, or tires, whether Source-Separated or commingled, and delivered in a single transaction at Metro Central Station or at Metro South Station in a form suitable for mechanical extraction of useful materials, notwithstanding the presence of incidental amounts or types of other contaminants.

(~~wa~~) "Recovery Rate" means the percentage expressed by dividing the sum of tonnage recovered at a solid waste facility, excluding Source-Separate Recyclable Materials, by the sum of the tonnage recovered at such facility, excluding Source-Separate Recyclable Materials, plus the Processing Residual at such facility.

(~~xv~~) "Recyclable Material" has the meaning specified in ORS 459.005(19).

(~~yw~~) "Regional System Fee" means those fees which pay the cost of the Metro Waste Management System.

(~~zx~~) "Regional transfer charge" means those fees which pay the direct unit operating costs of the Metro transfer stations. This fee is imposed upon all solid waste delivered to Metro disposal system facilities.

(~~aa~~) "Regional transfer station" is a transfer facility that accepts putrescible and non-putrescible wastes from a wide variety of commercial and public users; and includes as ancillary activities: collection of household and conditionally exempt generator hazardous waste, recycling drop center, and resource recovery.

(~~bb~~) "Solid waste" means all putrescible and nonputrescible wastes, including garbage, rubbish, refuse, paper and cardboard, commercial, industrial, demolition and construction waste, home and industrial appliances.

(ccaa) "Solid Waste Disposal Transaction" means the usage of Metro transfer station disposal facilities by a customer for the purpose of delivering for disposal a single load of solid waste during a single visit from a single vehicle (whether or not accompanied by, or transporting, one or more trailers), and shall be determined to occur upon a customer's entrance to Metro transfer station facilities.

(ddbb) "Source-Separate" has the meaning specified in ORS 459.005(26).

(eeee) "Special loads" means all loads of household hazardous waste that are 35 gallons or more in the aggregate or loads that contain any acutely hazardous waste.

(ffdd) "Special waste" means any waste (even though it may be part of a delivered load of waste) which one or more of the following categories describes:

- (1) Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in 3 through 9 and 11 of this definition below.
- (2) Waste transported in a bulk tanker.
- (3) Liquid waste including outdated, off spec liquid food waste or liquids of any type when the quantity and the load would fail the paint filter liquid (Method 9095, SW-846) test or includes 25 or more gallons of free liquid per load, whichever is more restrictive.
- (4) Containers (or drums) which once held commercial products or chemicals, unless the containers (or drums) are empty. A container is empty when:
 - (A) All wastes have been removed that can be removed using the practices commonly employed to remove materials from the type of container, e.g., pouring, pumping, crushing, or aspirating.
 - (B) One end has been removed (for containers in excess of 25 gallons); and
 - (i) No more than one inch thick (2.54 centimeters) of residue remains on the bottom of the container or inner liner; or
 - (ii) No more than 1 percent by weight of the total capacity of the container remains in the container (for containers up to 110 gallons); or

(iii) No more than 0.3 percent by weight of the total capacity of the container remains in the container for containers larger than 110 gallons.

- (C) Containers that once held acutely hazardous wastes must be triple-rinsed with an appropriate solvent or cleaned by an equivalent alternative method. Containers that once held substances regulated under the Federal Insecticide, Fungicide, and Rodenticide Act must be empty according to label instructions or triple-rinsed with an appropriate solvent or cleaned by an equivalent method. Plastic containers larger than five gallons that hold any regulated waste must be cut in half or punctured, and be dry and free of contamination to be accepted as refuse.
- (5) Sludge waste from septic tanks, food service, grease traps, or wastewater from commercial laundries, Laundromats or car washes.
 - (6) Waste from an industrial process.
 - (7) Waste from a pollution control process.
 - (8) Residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 1 through 7 or 9 of this definition.
 - (9) Soil, water, residue, debris, or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 1 through 8 of this definition.
 - (10) Chemical-containing equipment removed from service (for example: filters, oil filters, cathode ray tubes, lab equipment, acetylene tanks, CFC tanks, refrigeration units, or any other chemical containing equipment).
 - (11) Waste in waste containers that are marked with a National Fire Protection Association identification label that has a hazard rating of 2, 3, or 4, but not empty containers so marked.
 - (12) Any waste that requires extraordinary management or special handling.

Examples of special wastes are: chemicals, liquids, sludge and dust from commercial and industrial operations; municipal waste

water treatment plant grits, screenings and sludge; contaminated soils; tannery wastes, empty pesticide containers, and dead animals or by-products.

- (13) All loads of household hazardous waste that are 35 gallons or more in the aggregate.
- (14) Radioactive waste.
- (15) Medical waste.

(ggee) "Transaction Charge" means that fee which, for each transaction, serves to pay for related scalehouse costs at the Metro transfer stations.

(hhff) "Transfer Facility" means a solid waste disposal facility that receives solid waste primarily for reloading into different vehicles for transport to Metro South Transfer Station, Metro Central Transfer Station, a Metro licensed or franchised facility, or a Metro Designated Facility.

(iigg) "Unacceptable waste" means waste that is either:

- (1) Prohibited from disposal at a sanitary landfill by state or federal law, regulation, rule, code, permit or permit condition;
- (2) Special waste without an approved special waste permit. The executive officer may deny a special waste application if the special waste poses an unacceptable health and safety risk, or is likely to damage transfer station equipment.

(jj) "Waste" shall have the meaning set forth in Section 5.01.010 of this Chapter.

Section 2. Section 3 is added to and made a part of Chapter 5.02.

Section 3. Disposal Charge for Compostable Organic Waste

(a) There is hereby established a Compostable Organic Waste Disposal Charge for Compostable Organic Waste that shall be collected on all Compostable Organic Waste accepted at the Metro South Station or Metro Central Station.

(b) The Compostable Organic Waste Disposal Charge shall be Metro's actual costs for managing Compostable Organic Waste, based on the contractual price expressed on a per-ton basis paid by Metro to any contract operator of Metro South Station and Metro Central Station for recovering and processing Compostable Organic Waste.

(c) In the event that no agreement is reached between Metro and its contract operator for recovering and processing Compostable Organic Waste, the Compostable Organic Waste Disposal Charge shall be the sum of:

- (1) The sum of the amount of the Regional Transfer Fee as defined in Section 5.02.025 (b) (2) of this chapter, plus \$0.75 per ton; and
- (2) The transport and processing charges for Compostable Organic Waste paid by Metro or its contract operator, expressed on a per-ton basis; and
- (3) The cost of materials utilized at Metro Central Station and Metro South Station for managing the Compostable Organic Waste, expressed on a per-ton basis.

(d) Notwithstanding the Compostable Organic Waste Disposal Charge as calculated in subsection (c) of this section, the Director of the Regional Environmental Management Department may establish a reduced disposal charge for Compostable Organic Waste. This reduced disposal charge shall be based on the Director's estimate of what the sum of the costs set forth in subsection (c) would be on July 1, 2003. Prior to implementing any reduced Compostable Organic Waste Disposal Charge, the Director of the Regional Environmental Management Department shall provide a report to Metro Council stating the costs that are expected to prevail on July 1, 2003 for managing Compostable Organic Waste. The provisions of this subsection are repealed June 30, 2003.

(e) The Compostable Organic Waste Disposal Charge shall be in lieu of all other base disposal charges, transaction fees, user fees, regional transfer charges, rehabilitation and enhancement fees, and certification non-compliance fees that may be required by this chapter.

(f) Notwithstanding subsections (b) and (c) of this section, the Director of the Regional Environmental Management Department may establish a minimum charge for loads of Compostable Organic Waste.

Section 4. Metro Code Section 7.01.020 as amended by Metro Ordinance No. 00-857B is amended as follows.

7.01.010 Tax Imposed

(a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by the district, each user except users of solid waste system facilities shall pay a tax of 7.5 percent of the payment charged by the operator or the district for such use unless a lower rate has been established as provided in subsection 7.01.020(b). The tax constitutes a debt owed by the user to the district which is extinguished only by payment of the tax

directly to the district or by the operator to the district. The user shall pay the tax to the district or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) or in subsections 7.01.020(c)-(e) by so providing in an ordinance adopted by the district. If the council so establishes a lower rate of tax, the executive officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the council as provided for herein.

(c) For the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements, owned, operated, certified, licensed, franchised, or provided by the district, each user of solid waste system facilities and each solid waste facility licensed or franchised under chapter 5.01 of this Code to deliver putrescible waste directly to the district's contractor for disposal of putrescible waste shall pay a tax in the amount calculated under subsection (e)(1) for each ton of solid waste exclusive of compostable organic waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. The tax constitutes a debt owed by the user to the district which is extinguished only by payment of the tax directly to the district or by the operator to the district. The user shall pay the tax to the district or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(d) For the Metro fiscal year beginning July 1, 2000, and for each fiscal year thereafter subject to Section 4 of this ordinance, the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue of \$5,700,000 after allowing for any tax credit or tax rebate for which provision is made in this chapter.

(e) (1) The excise tax rate for each ton of solid waste, exclusive of (i) source separate recyclable materials accepted at the solid waste system facilities, (ii) inert materials, ~~and~~ (iii) Cleanup Materials

Contaminated by Hazardous Substances, and (iv) compostable organic waste delivered to Metro Central or Metro South stations, shall be the amount that results from dividing the net excise tax revenue amount set forth in sub-section (d) by the amount of solid waste tonnage which the Executive Officer reports to the Council under sub-section (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be the district's excise tax rate on solid waste during the subsequent Metro fiscal year.

(e) (2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be \$1.00.

(f) By December 1, 2000 and by March 1st of each year thereafter, the Executive Officer shall provide a written report to the Metro Council stating the following:

- (1) For the twelve-month period ending the previous December 31; the amount of solid wastes, exclusive of inert materials, delivered for disposal to any Solid Waste System Facility that is not exempt pursuant to section 7.01.050(a) of this chapter, and
- (2) The amount of such solid wastes that would have been delivered for disposal to any such non-exempt Solid Waste System Facility if the Regional Recovery Rates corresponding to each calendar year set forth on the following schedule had been achieved:

Year	Regional Recovery Rate
1999	43%
2000	46%
2001	48%
2002	50%
2003	52%
2004	54%
2005	56%

The result of such calculation by the Executive Officer shall be used to determine the excise tax rate under sub-section (e)(1).

(g) A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(e)(1) for disposal of Processing Residuals from such facility. The Facility Recovery Rate shall be calculated for each six-month period before the month in which the credit is claimed. Such credit shall be dependent upon the

Facility Recovery Rate achieved by such facility and shall be equal to the amount resulting from reducing the Excise Tax due by the percentage reduction corresponding with the Facility Recovery Rates provided on the following table:

Excise Tax Credit Schedule		
Facility Recovery Rate		Excise Tax Credit
From Above	Up To & Including	
0%	25%	0%
25%	30%	4%
30%	35%	10%
35%	40%	20%
40%	45%	33%
45%	100%	45%

ADOPTED by the Metro Council this _____ day of _____, 2000.

David Bragdon, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

EXECUTIVE SUMMARY
Ordinance No. 00-876

PROPOSED ACTION

- Recommend that Metro Council pass Ordinance No. 00-876, which amends Metro Code Chapter 5.02 to establish a tip fee for “compostable organic waste” delivered to Metro Central or Metro South transfer stations.

WHY NECESSARY/DESCRIPTION

- Allows for a rate to be posted at the transfer station for such materials and allows them to be accepted and managed separately from other solid wastes.
- Helps to implement the Organic Waste Management Work Plan adopted by Metro Council as Resolution No. 99-2856, by increasing the region’s ability to accept, stage and recover such materials.

ISSUES

- In order for the transfer stations to fill a critical role in organic waste recovery, they must be able to accept source-separated organic waste from third party haulers.
- The Metro Code currently has provisions for special user charges for other Recoverable Solid Waste. Organic materials already covered by these provisions include yard debris and wood waste.
- An established tip fee for compostable organic materials is an important price signal for developers of organics collection and recovery infrastructure.
- The proposed changes to Metro Code simply allow REM to charge a different rate for compostable organic wastes, but do not change their status as “solid waste” for regulatory and legal purposes. For example, the Code changes do not establish a new class of “source-separated organics.”
- This Ordinance will allow REM to charge a reduced rate for “compostable organic waste” up to 3 years. The Budget Advisory Committee recommended that: (1) REM set a reduced rate up to 3 years, in order to allow the industry time to develop (or to signal that it won’t develop); (2) the reduced rate be based on costs that are expected to prevail after the industry becomes established. In this way, long-run price signals are not distorted, and the transition from a subsidized rate to an unsubsidized rate should be relatively smooth.

BUDGET/FINANCIAL IMPACTS

- None. The rate for Recoverable Solid Waste covers all Metro costs of managing such waste at the transfer stations. Any additional management, such as for processing, testing and marketing, are encompassed by the Organic Waste Management Work Plan. Both the Organics Plan and its budget have already been approved by Metro Council, so there is no additional fiscal impact.

STAFF REPORT

Ordinance No. 00-876, For the purpose of amending Metro Code Chapter 5.02 to create a disposal charge for compostable organic waste at Metro transfer stations and making related changes to the Metro excise tax and Metro Code Chapter 7.01.

September 7, 2000

Presenter: Terry Petersen

BRIEF DESCRIPTION OF ORDINANCE

This Ordinance amends Metro Code Chapter 5.02 to establish a rate for organic wastes that are delivered in a form suitable for making compost. This allows a rate to be posted at the transfer station for such materials, and allows them to be accepted and managed separately from other solid wastes. This fact increases the region's capacity to accept, stage and recover such materials; an important goal of the Organic Waste Management Work Plan, adopted by Metro Council as Resolution No. 99-2856.

EXISTING LAW

Establishment of a rate for compostable organic waste requires an amendment of Metro Code Chapter 5.02. Any amendment of Metro Code requires an ordinance approved by Metro Council, pursuant to Metro Charter section 39(1).

BACKGROUND

In December 1999, a three-year Organic Waste Management Work Plan developed by an intergovernmental team was adopted by the Metro Council (Resolution No. 99-2856). This plan provides for a three-track approach to the recovery and diversion of the region's organic wastes. The plan emphasizes waste prevention, recovery of food for human use, diversion of food for animal feed and the development of processing infrastructure for organic materials not suitable for other uses.

Pilot projects for the collection and processing of organics and the development of infrastructure to handle such materials are key elements of the Organics Plan. The Metro transfer stations will play a critical role in the development of the region's ability to recover and manage organic wastes. In addition, Metro is developing a Request for Proposals (RFP) for disposal of 10% of the region's waste. The RFP includes provisions for commercial organics processing. The RFP incorporates the use of Metro transfer stations for staging, reloading and possibly on-site processing. A rate for organic material will be necessary to accommodate these activities.

In implementing the new Organics Plan, it becomes necessary to accept organic material from "third-party" haulers. This requires that Metro post a fee and manage organics separately from mixed solid waste at the transfer stations. The Metro Code currently has provisions for special user charges for Recoverable Solid Waste. Some organic wastes are already covered by these provisions; specifically, yard debris and wood waste. By including a definition and rate for "compostable organic waste," REM can establish fair and equitable rates for delivery to and

management of organic waste at Metro's transfer stations. The amendments in this ordinance were unanimously recommended for Council approval by the Rate Review Committee on July 12, 2000.

A cost-driven rate formula for compostable organic waste is proposed. This rate structure is patterned after the "recoverable solid waste" rate formula presently in Metro Code. The specifics of the ordinance incorporate recommendations from the Budget Advisory Committee. Among these recommendations are: (1) foregoing the Regional System Fee and Metro excise tax on "compostable organic waste" consistent with Metro's fee policies toward recoverable materials, and (2) provision for a temporarily-reduced organics rate to help get the collection and recovery infrastructure up and running.

This Ordinance will allow REM to charge a reduced rate for "compostable organic waste" up to 3 years in the event that a temporarily reduced rate is required to help develop an organics infrastructure. This recommendation emerged from the Budget Advisory Committee (BAC) in recognition of the fact that any cost-driven rate is likely to be higher than the MSW rate while the industry is still in its infancy. The BAC recommended against an artificially low subsidized rate, because this could distort the market, and would cause significant disruptions if the subsidy is ever eliminated. The BAC also recommended against a permanently subsidized rate, because this too distorts the market. The BAC recommendation that is implemented in the proposed Code revisions are: (1) REM may set a reduced rate up to 3 years, in order to allow the industry time to develop (or to signal that it won't develop); (2) the reduced rate is based on costs that are expected to prevail after the industry becomes established. In this way, long-run price signals are not distorted, and the transition from a subsidized rate to an unsubsidized rate should be relatively smooth.

BUDGET IMPACT

Budget Impact, FY 2000-01

Solid Waste Revenue Fund. No further budget impact. The Compostable Organic Waste Disposal Charge covers all Metro costs of managing such waste at the transfer stations. Any additional management, such as for processing, testing and marketing, are encompassed by the Organic Waste Management Work Plan. The dollar amount needed to subsidize a reduced Compostable Organic Waste Disposal Charge (pursuant to Section 2[d] of the ordinance), if any, is also covered by the budget for the organics work plan. Metro Council has already approved both the Organics Plan and its budget, so there is no additional fiscal impact.

General Fund. During FY 2000-01, REM expects most organic wastes to be delivered under a pilot project within the Organic Waste Management Work Plan. For these cases, there is no budget impact on the General Fund. If, however, any organic wastes are diverted from the non-exempt waste stream to compostable organic waste and delivered outside the pilot, then the excise tax revenue on the diverted tonnage would be foregone. However, REM believes that the probability of organic wastes delivered outside the pilot during FY 2000-01 is very remote; and even if such organic wastes are delivered, the amount would be small in any case.

Budget Impact after FY 2000—01

None. Metro does not lose revenues when anticipated amounts of recyclable, recoverable or compostable materials are exempted from the regional system fee or Metro excise tax. Rather, the fee and tax rates are raised, and revenue formerly derived from exempted materials is obtained from solid waste that continues to be disposed.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 00-876.

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